

ASSEMBLY BILL

No. 1084

Introduced by Assembly Member Vargas

February 22, 2005

An act to amend Section 10290 of, and to add Sections 10370, 10371, and 10372 to, the Insurance Code, relating to disability insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1084, as introduced, Vargas. Policy terms

Existing law generally regulates health insurance. Existing law prohibits a health insurance policy from being issued or delivered until certain documents are filed with the Insurance Commissioner, and a period of 30 days expires after this filing or the commissioner gives his or her written approval prior to that time.

This bill would change the 30-day period to 30 business days.

Existing law generally regulates disability income insurance, which is insurance against loss of occupational earning capacity arising from injury, sickness, or disablement. Existing law allows disability income insurance policies to include certain optional provisions.

This bill would allow a group disability income insurance policy to contain provisions for a rehabilitation program. It would also allow a policy of this type to contain a provision stating that benefits shall not be payable unless the insured is covered under a health insurance policy and is receiving care by a licensed physician that, under prevailing medical standards, is appropriate for the condition causing the disability, except as specified. The bill would also set forth provisions for the payment of additional disability income benefits.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 10290 of the Insurance Code is amended to read:

10290. A disability policy shall not be issued or delivered to any person in this ~~State~~ *state* until *each of the following occurs*:

(a) A copy of the form thereof and, if more than one class of risks is written, of the classification of risks, and the premium rates pertaining thereto are filed with the commissioner.

(b) *Either of the following occurs*:

(1) ~~Thirty~~ *A period of 30 business days* expires without notice from the commissioner after ~~such~~ *the* copy is filed, ~~or~~.

(2) The commissioner gives his *or her* written approval prior to that time.

SEC. 2. Section 10370 is added to the Insurance Code, to read:

10370. (a) A group disability income insurance policy, as defined in subdivision (i) of Section 799.01, may contain provisions for a rehabilitation program, provided that each of the following is true with respect to the covered employee with a disability:

(1) The employee is currently eligible to receive disability income benefits under the policy.

(2) The employee shall not incur any costs for services provided under the rehabilitation program.

(3) The employee is physically, cognitively, and mentally able to participate in the program.

(4) The employee is reasonably expected to return to active employment in his or her occupation or another occupation with the assistance of the program.

(5) The employee is currently covered under a health insurance policy.

(b) (1) The provisions allowed by subdivision (a) may require a covered employee who is currently receiving disability income benefits to participate in a physical or vocational rehabilitation program if a certified rehabilitation professional and the covered employee's physician agree that the covered employee is physically, cognitively, and mentally able to participate in a rehabilitation program and that this participation could

1 reasonably be expected to result in a return to active
2 employment.

3 (2) The provisions may also require a covered employee to
4 participate in a rehabilitation program for the duration of his or
5 her claim.

6 (3) Benefits shall be continued for a covered employee who
7 attempts to participate in the program, but is unable to continue
8 that participation because he or she remains disabled under the
9 policy, subject to all other policy provisions.

10 (c) Nothing in this section shall allow the insurer issuing the
11 group policy to direct medical treatment under a rehabilitation
12 program.

13 (d) Insurers issuing policies with the rehabilitation provisions
14 described in subdivision (a) may also be permitted to offer
15 policies that do not contain those provisions.

16 (e) Neither inclusion of, nor participation in, a rehabilitation
17 program authorized by this section is intended to affect existing
18 decisional law of California or existing policy provisions in
19 issued contracts.

20 (f) For purposes of this section, a rehabilitation program
21 includes vocational rehabilitation and physical rehabilitation.
22 Vocational rehabilitation includes, but is not limited to, any
23 necessary and feasible vocational testing, vocational training,
24 workplace modification, and assistance in locating suitable
25 employment. Physical rehabilitation includes, but is not limited
26 to, any necessary and feasible occupational therapy, physical
27 therapy, speech therapy, and work conditioning.

28 (g) For the purposes of this section, “certified rehabilitation
29 professional” means any of the following: certified rehabilitation
30 counselor, certified case manager, certified vocational evaluator,
31 certified disability management specialist, licensed physical
32 therapist, licensed occupational therapist, licensed speech
33 language pathologist, or registered nurse. “Certified
34 rehabilitation professional” shall not include a person who does
35 not comply with any certification or licensing requirement under
36 California law.

37 SEC. 3. Section 10371 is added to the Insurance Code, to
38 read:

39 10371. (a) A disability income insurance policy, as defined in
40 subdivision (i) of Section 799.01, may contain a provision that

1 provides that benefits shall not be payable unless the insured is
2 receiving care by a licensed physician that, under prevailing
3 medical standards, is appropriate for the condition causing the
4 disability. This requirement will be deemed to have been met if
5 the insurer receives written proof that, under prevailing medical
6 standards, further care by a physician would not be of benefit to
7 the insured.

8 (b) This section shall not apply to an insured, unless the
9 insured is covered under a health insurance policy.

10 SEC. 4. Section 10372 is added to the Insurance Code, to
11 read:

12 10372. (a) The Legislature finds and declares the following:

13 (1) Employees with a disability often encounter extraordinary
14 expenses not covered by financial resources.

15 (2) Not all individuals have the financial resources to purchase
16 long-term care insurance.

17 (3) It is good public policy to make available through group or
18 individual disability income policies additional disability income
19 benefits when employees with a disability find themselves unable
20 to perform certain activities of daily living.

21 (b) A disability income insurance policy, as defined in
22 subdivision (i) of Section 799.01, may contain provisions for the
23 payment of additional disability income benefits. An employee
24 covered under a group or individual disability income policy may
25 be required to establish eligibility for disability income benefits
26 only once and shall not be required to reestablish eligibility if,
27 subsequently, the employee with a disability makes a claim for
28 additional disability income benefits. Eligibility for additional
29 disability income benefits shall be established if the employee
30 with a disability is determined to be unable to perform no fewer
31 than two activities of daily living. The determination of
32 eligibility shall be made in writing by a licensed health care
33 practitioner, and an insurer may seek independent confirmation
34 of the health care practitioner's findings. Additional disability
35 income benefits shall be paid as long as the employee with a
36 disability remains eligible for disability income benefits and
37 continues to be unable to perform no fewer than two activities of
38 daily living. Additional disability income benefits may be
39 utilized by the employee with a disability in any manner he or
40 she determines. The certificate issued in conjunction with a

1 group disability income policy containing provisions for the
2 payment of additional disability income benefits shall
3 prominently note that the additional benefits are not long-term
4 care insurance and are not intended as a substitute for long-term
5 care insurance. For purposes of this section, activities of daily
6 living are bathing, dressing, continence, toileting, transferring,
7 and eating.

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